



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2015-0949]

RIN 1625-AA08

Special Local Regulation; Mavericks Surf Competition, Half Moon Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing a temporary special local regulation in the navigable waters of Half Moon Bay, CA, near Pillar Point in support of the Mavericks Surf Competition, an annual invitational surf competition held at the Mavericks Break. This special local regulation will temporarily restrict vessel traffic in the vicinity of Pillar Point and prohibit vessels and persons not participating in the surfing event from entering the surf competition area. This regulation is necessary to provide for the safety of life on the navigable waters immediately prior to, during, and immediately after the surfing competition, which is held only one day during the period of November 1, 2015, through March 31, 2016.

**DATES:** Effective date: This rule is effective [Insert date of publication in the Federal Register] through March 31, 2016.

Enforcement date: This rule will be enforced on the competition day, which, if defined wave and wind conditions are met, will occur one day during the period from November 1, 2015, through March 31, 2016. This rule will be enforced from 6 a.m. until 6 p.m. on the actual competition day.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2015-0949 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rulemaking, call or email Lieutenant Junior Grade Christina Ramirez, U.S. Coast Guard Sector San Francisco; telephone (415) 399-3585, e-mail at [D11-PF-MarineEvents@uscg.mil](mailto:D11-PF-MarineEvents@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive order
FR	<b><i>Federal Register</i></b>
Pub. L.	Public Law
§	Section
U.S.C.	United States Code
OCMI	Officer in Charge of Marine Inspections
NPRM	Notice of Proposed Rulemaking

**II. Background Information and Regulatory History**

The Mavericks Surf Competition is a one day "Big Wave" surfing competition between the top 24 big wave surfers. The competition only occurs when 15-20 foot waves are sustained for over 24 hours and are combined with mild easterly winds of no more than 5-10 knots. The rock and reef ridges that make up the sea floor of the Pillar Point area, combined with optimal weather conditions, create the large waves that Mavericks is known for. Due to the hazardous waters surrounding Pillar Point at the time of the surfing competition, the Coast Guard is establishing a special local regulation in the vicinity of Pillar Point that restricts navigation in the area of the surf competition and in neighboring hazardous areas.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest."

Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. It is impracticable to publish an NPRM because we must establish this special local

regulation by November 1, 2015, and the competition would occur before the notice-and-comment rulemaking process would be completed. The rule needs to be effective by that date to respond to the potential safety hazards associated with the dangers posed by the surf conditions during the Mavericks Surf Competition. The regulated area is necessary to provide for the safety of event participants, spectator craft, and other vessels transiting the event area.

### **III. Legal Authority and Need for Rule**

Under 33 CFR 100.35, the Coast Guard District Commander has authority to promulgate certain special local regulations deemed necessary to ensure the safety of life on the navigable waters immediately before, during, and immediately after an approved regatta or marine parade. The Commander of Coast Guard District 11 has delegated to the Captain of the Port (COTP) San Francisco the responsibility of issuing such regulations.

The Cartel Management Inc. will sponsor the Mavericks Surf Competition. The Mavericks Surf Competition will take place on a day that presents favorable surf conditions on one day during the period from November 1, 2015, through March 31, 2016, from 6 a.m. until 6 p.m in the navigable waters of Half Moon Bay, CA near Pillar Point in approximate position 37°29'34"N, 122°30'02"W (NAD 83) as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18682. The regulation

is issued to establish a regulated area on the waters surrounding the competition. This regulated area is bounded by an arc extending 1000 yards from Sail Rock (37°29'34"N, 122°30'02"W) excluding the waters within Pillar Point Harbor. The regulated area is necessary to ensure the safety of mariners transiting the area.

#### **IV. Discussion of the Rule**

The Coast Guard will enforce a regulated area in navigable waters defined by an arc extending 1000 yards from Sail Rock between 6 a.m. and 6 p.m. on the day of the actual competition. Mavericks Surf Competition can only occur when 15-20 foot waves are sustained for over 24 hours and are combined with mild easterly winds of no more than 5-10 knots. Unpredictable weather patterns and the event's narrow operating window limit the Coast Guard's ability to notify the public of the event. The Coast Guard will issue notice of the event as soon as practicable, but no later than 24 hours before competition day via the Broadcast Notice to Mariners and will issue a written Boating Public Safety Notice at least 24 hours in advance of Competition day. Also, the zones that would be established by this rule will be prominently marked by at least 8 buoys throughout the course of the event.

The Mavericks Surf Competition will occur in the navigable waters of Half Moon Bay, CA, in the vicinity of Pillar Point as

depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18682. The Coast Guard will enforce a regulated area defined by an arc extending 1000 yards from Sail Rock (37°29'34"N, 122°30'02"W) excluding the waters within Pillar Point Harbor. All restrictions would apply only between 6 a.m. and 6 p.m. on the day of the actual competition.

The effect of this regulation will be to restrict navigation in the vicinity of Pillar Point during the Mavericks Surf Competition. During the enforcement period, the Coast Guard will direct the movement and access of all vessels within the regulated area. The regulated area will be divided into two zones. Zone 1 will be designated as the competition area, and the movement of vessels within Zone 2 will be controlled by the Patrol Commander (PATCOM).

This regulation is needed to keep spectators and vessels a safe distance away from the event participants and the hazardous waters surrounding Pillar Point. Past competitions have demonstrated the importance of restricting access to the competition area to only vessels in direct support of the competitors. Failure to comply with the lawful directions of the Coast Guard could result in additional vessel movement restrictions, citation, or both.

## **V. Regulatory Analyses**

We developed this rule after considering numerous statutes

and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.'s, and we discuss First Amendment rights of protestors.

#### A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under E.O. 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget.

We expect the economic impact of this rule does not rise to the level of necessitating a full Regulatory Evaluation. The regulated area and associated regulations are limited in duration, and are limited to a narrowly tailored geographic area. In addition, although this rule restricts access to the waters encompassed by the regulated area, the effect of this rule will not be significant because the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the regulations will result in minimum impact. The entities most likely to be affected are small commercial vessels, and pleasure craft engaged in recreational activities.

## B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule may affect small commercial vessels, and pleasure craft engaged in recreational activities and sightseeing. This regulated area would not have significant economic impact on a substantial number of small entities for the following reasons. This regulated area would be activated, and thus subject to enforcement, for a limited duration. The maritime public will be advised in advanced of this regulated area via Broadcast Notice to Mariners.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance



with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under E.O. 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

Also, this rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct

effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

#### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves

a regulated area of an arc extending 1000 yards and lasting less than 12 hours. It is categorically excluded from further review under paragraph 34(h) and 35 (b) of Figure 2-1 of Commandant Instruction M16475.1D. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

#### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

#### PART 100 - REGATTAS AND MARINE PARADES

1. The authority citation for part 100 is revised to read

as follows:

Authority: 33 U.S.C. 1233; 33 CFR 1.05-1.

2. Effective [Insert date of publication in the Federal Register] through March 31, 2016, suspend § 100.1106.

3. Effective [Insert date of publication in the Federal Register] through March 31, 2016, add § 100.T11-739 to read as follows:

§ 100.T11-739 Special Local Regulation; Mavericks Surf Competition.

(a) Location. This special local regulation establishes a regulated area on the waters of Half Moon Bay, located in the vicinity of Pillar Point, excluding the waters within Pillar Point Harbor. This regulated area is defined in paragraph (c) of this section.

(b) Enforcement period. This section will be enforced between 6 a.m. and 6 p.m. on Competition day, which if defined wave and wind conditions are met, will occur for one day one day during the period from November 1, 2015, through March 31, 2016. Notice of the specific enforcement date of this section will be announced via Broadcast Notice to Mariners and issued in writing by the Coast Guard in a Boating Public Safety Notice at least 24 hours in advance of Competition day.

(c) Definitions. As used in this section—

Competition day means the one day between November 1 of each year and March 31 of the following year, that Mavericks Surf Competition will be held. The Mavericks Surf Competition will only be held if 15 to 20 foot waves are sustained for over 24 hours and are combined with mild easterly winds of no more than 5 to 10 knots.

Competitor means a surfer enrolled in the Mavericks Surf Competition.

Patrol Commander or PATCOM means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer, or a Federal, State, or local officer designated by the Captain of the Port San Francisco (COTP), to assist in the enforcement of the special local regulation.

Regulated area means the area in which the Maverick's Surf Competition will take place. This area is bounded by an arc extending 1000 yards from Sail Rock (37°29'34"N, 122°30'02"W) excluding the waters within Pillar Point Harbor. All coordinates are North American Datum 1983. Within the regulated area, at least two zones will be established and marked by buoys on the day of the competition. Due to the dynamic and changing nature of the surf, the exact size and location of the zones will not be made public until the competition day. The zones will be prominently marked by at least 8 buoys, placed and maintained throughout the course of the event by the event

sponsor in a pattern approved by the PATCOM. In addition, the USCG will notify the public of the zone locations via Broadcast Notice to Mariners on the day of the event.

Spectator vessel means any vessel or person, including human powered craft, which is not designated by the sponsor as a support vessel.

Support vessel means a vessel, including jet skis, which is designated and conspicuously marked by the sponsor to provide direct support to the competitors. Support vessels must be pre-designated and approved to serve as such for this event by the Officer in Charge of Marine Inspection (OCMI) prior to the competition.

Zone 1 means the competition area within the regulated area. Zone 1 will generally be located to the northwest of a line drawn between Sail Rock (37°29'34"N, 122°30'02"W) and Pillar Point Entrance Lighted Gong Buoy 1 (37°29'10.410"N, 122°30'21.904"W).

Zone 2 means the area within the regulated area where the Coast Guard may direct the movement of all vessels, including restricting vessels from this area. Zone 2 will generally be located to the southeast of a line drawn between Sail Rock (37°29'34"N, 122°30'02"W) and Pillar Point Entrance Lighted Gong Buoy 1 (37°29'10.410"N, 122°30'21.904"W).

(d) Special local regulations. The following regulations

apply between 6 a.m. and 6 p.m. on the competition day.

(1) Only support vessels may be authorized by the Patrol Commander (PATCOM) to enter Zone 1 during the competition.

(2) Entering the water in Zone 1 by any person other than the competitors is prohibited. Competitors may enter the water in Zone 1 from authorized support vessels only.

(3) Spectator vessels and support vessels within Zone 2 must maneuver as directed by PATCOM. Given the changing nature of the surf in the vicinity of the competition, PATCOM may close Zone 2 to all vessels due to hazardous conditions. Due to weather and sea conditions, the Captain of the Port may deny access to Zone 2 and the remainder of the regulated area to all vessels other than competitors and support vessels on the day of the event

(4) Entering the water in Zone 2 by any person is prohibited.

(5) Rafting and anchoring of vessels are prohibited within the regulated area.

(6) Only vessels authorized by the PATCOM will be permitted to tow other watercraft within the regulated area.

(7) Spectator and support vessels in Zones 1 and 2 must operate at speeds which will create minimum wake, in general, 7 miles per hour or less.

(8) When hailed or signaled by the PATCOM by a succession of sharp, short signals by whistle or horn, the hailed vessel must come to an immediate stop and comply with the lawful directions issued. Failure to comply with a lawful direction may result in additional operating restrictions, citation for failure to comply, or both.

(9) During the events, vessel operators may contact the PATCOM on VHF-FM channel 13.

Dated: October 15, 2015

Gregory G. Stump,  
Captain, U.S. Coast Guard,  
Captain of the Port San Francisco

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